




# CITY OF PALM SPRINGS

## DEPARTMENT OF PLANNING SERVICES

### MEMORANDUM

**Date:** April 22, 2009  
**To:** Planning Commission  
**From:** Craig A. Ewing, AICP, Director of Planning Services   
**Subject:** Case No. 5.0909-CUP -- Draft Resolution Recommending to the City Council Modification of the Conditions of Approval

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On April 8, 2009, the Planning Commission conducted a public hearing to consider a recommendation regarding revocation of the Conditional Use Permit (CUP) granted to the Viceroy Hotel (formerly Estrella Inn) for a restaurant, spa and other accessory uses.

Following the hearing, the Planning Commission directed staff to prepare a draft resolution reflecting the Commission's action: To recommend to the City Council modification of the CUP, as follows:

1. Require that all improvements be completed by December 31, 2010, with specific time requirements for the multi-phase program.
2. Require that failure to meet any of the specific timelines would result in expiration of the CUP.

The Department of Public Works proposes a phasing program and timeline, based on the Commission final completion date, as follows:

- Phase 1 (June 1, 2009 through October 31, 2009): Cahuilla Road hardscape improvements (for pedestrians and parking areas) and paving of Cahuilla Road; this work should be constructed in accordance with the Street Improvement plans approved by the City in July of 2007.
- Phase 2 (November 1, 2009 through April 30, 2010): Landscaping Improvements
- Phase 3: (May 1, 2010 through December 31, 2010): Belardo Road improvements; this work should be constructed in accordance with the Street Improvement plans approved by the City in July of 2007.

A draft resolution, including Public Works' proposed schedule is attached.

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PALM SPRINGS, CALIFORNIA RECOMMENDING MODIFICATION OF A CONDITIONAL USE PERMIT (CASE NO. 5.0909-CUP) DUE TO NON-COMPLIANCE WITH CONDITIONS, FOR THE VICEROY HOTEL LOCATED AT 415 SOUTH BELARDO ROAD.

WHEREAS, on July 24, 2002, the Planning Commission approved a Conditional Use Permit (Case 5.0909-CUP) to allow a restaurant, spa and other accessory facilities at the existing Viceroy Hotel (formerly Estrella Inn); and

WHEREAS, the restaurant, spa and other accessory uses granted by Case No. 5.0909-CUP were soon thereafter established and remain in use to the present day; and

WHEREAS, among the conditions of approval for 5.0909-CUP were certain improvements along the property's Belardo Road and Cahuilla Road frontages, including landscape plans, a parking management program, activities program, and street improvement plans; and

WHEREAS, on February 26, 2003, the Planning Commission approved the submitted parking management program, with the condition that the applicant submit detailed construction plans for the required Belardo Road and Cahuilla Road street improvements; and

WHEREAS, on June 25, 2003, the Planning Commission reviewed the applicant's street improvement plans, and approved staff's recommended improvements along the Belardo Road and Cahuilla Road frontages; and

WHEREAS, on July 8, 2003, Ms. Sheryl Hamlin, on behalf of the Historic Tennis Club Neighborhood Organization and Historic Tennis Club District Hotel Association, filed an appeal of the Planning Commission's approval of the required Belardo Road and Cahuilla Road street improvements; and

WHEREAS, on September 17, 2003, the City Council considered the appeal, and upheld the Planning Commission's approval of the required street improvements on Belardo Road and returned the street improvements for the Cahuilla Road frontage to the Planning Commission for further review; and

WHEREAS, on May 11, 2005, the Planning Commission reviewed and approved the final concept plans for the required Cahuilla Road street improvements; and no appeal was filed; and

WHEREAS, Section 94.02.00.1 of the Palm Springs Zoning Code allows the revocation of a Conditional Use Permit for noncompliance with any of the conditions set forth in granting the permit; and

WHEREAS, on November 8, 2006, the Planning Commission concluded that the conditions regarding the installation of street and parking improvements for Belardo and Cahuilla Roads had not been implemented as required by the Conditions of Approval for Case 5.0909-CUP, and directed staff to set a revocation hearing for the CUP; and

WHEREAS, notice of public hearing of the Planning Commission of the City of Palm Springs to consider a recommendation for revocation of Case 5.0909-CUP has been given in accordance with applicable law; and

WHEREAS, on April 8, 2009, a public hearing to consider a recommendation for revocation of Case 5.0909-CUP was held by the Planning Commission in accordance with applicable law; and

WHEREAS, the Planning Commission has carefully reviewed and considered all of the evidence presented in connection with the hearing on the project, including, but not limited to, the staff report, and all written and oral testimony presented.

**THE PLANNING COMMISSION HEREBY FINDS AS FOLLOWS:**

Section 1: That the uses of a restaurant, spa and accessory uses as granted by Case No. 5.0909-CUP have been established, and the benefits of said uses have been continuously enjoyed by the property owner to the present day.

Section 2: That among the conditions approved by Case No. 5.0909-CUP for establishing the restaurant, spa and accessory uses include the installation of certain street improvements along the street frontages of the subject site on Belardo and Cahuilla Roads.

Section 3: That, as of April 8, 2009, said street improvements have not been installed in accordance with the conditions of approval for Case No. 5.0909-CUP, and that failure to install said improvements have allowed the property owner to enjoy the benefits of the permitted uses while causing the neighborhood to bear the detrimental effects of esthetic, parking, pedestrian access and other problems associated with the unfinished landscaping, sidewalk, parking and street improvements.

NOW, THEREFORE, BE IT RESOLVED that, based upon the foregoing, the Planning Commission hereby recommends to the City Council the modify the conditions of approval for Case 5.0909-CUP for restaurant, spa and other accessory uses for the Viceroy Hotel, located at 415 S. Belardo Road, as follows:

1. That all street improvement required for Belardo and Cahuilla Roads shall be completed on or before December 31, 2010, with the following intermediate milestones completed according to the following completion schedule:
  - Phase 1 (June 1, 2009 through October 31, 2009): Cahuilla Road hardscape improvements (for pedestrians and parking areas) and paving of Cahuilla Road; this work should be constructed in accordance with the Street Improvement plans approved by the City in July of 2007.
  - Phase 2 (November 1, 2009 through April 30, 2010): Landscaping Improvements
  - Phase 3: (May 1, 2010 through December 31, 2010): Belardo Road improvements; this work should be constructed in accordance with the Street Improvement plans approved by the City in July of 2007.
2. That failure to meet any of the milestones of the approved completion schedule shall cause Case No. 5.0909-CUP to be considered void, with no notice or public hearing required.

ADOPTED this 22<sup>nd</sup> day of April, 2009.

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

ATTEST:

CITY OF PALM SPRINGS, CALIFORNIA

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Craig A. Ewing, AICP  
Director of Planning Services